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REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case May 21, 2004. In the Office Action the Examiner rejects claims 16-18 and 27-30 under 35 U.S.C. 102(e) as being anticipated by Montalvo (US 6,594,480) hereinafter Montalvo. Claims 1-7, 11-15, 19-26 and 31-42 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Montalvo in view of Gisby (US 6,044,146) hereinafter Gisby. Claims 8-10 are rejected under 35 U.S.C> 103(a) as being unpatentable over Montalvo in view of Gisby and further in view of Hultgren (US 6,134,589) hereinafter Hultgren.

In response to the Office Letter applicant has carefully studied the prior art and the Examiner's rejections and statements. The applicant herein presents arguments to distinguish unarguably over the references cited and applied by the Examiner.

Regarding independent claims 16 and 27 the Examiner rejects he claims as being anticipated by Montalvo. The Examiner states that Montalvo teaches a software control application for priority based number switching from a lower priority access number to a high priority access number during a data session conducted by a user connected to a data packet network through on of a list of available access numbers (col. 8 line 66 to col. 9 line 11).

Applicant strongly disagrees with the Examiner's interpretation of Montalvo. Montalvo teaches an apparatus and method for compiling a list of telephone dialing strings for the connection of a telecommunications device to an external network. Montalvo creates, prioritizes and stores dialing strings to be used to make a connection to an outside network. A user in Montalvo, using a lap top or other mobile communication device, needs to connect to an outside network. The user then accesses the program, identifies his/her location, and inputs any possible known access numbers. The program of Montalvo then creates a dialing string and attempts to place a connection to the outside line based on the dialing string. If a number on the string connects it is prioritized in the string. Applicant points out that in the art of Montalvo the dialer attempts the numbers on

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the dialing string only until a connection is made. There is no monitoring or dial attempt made after the user is connected (col. 9, lines 1-3).

Applicant points out that in both claims 16 and 27 there are clear limitations provided reciting that the user is already connected to the outside network and the program attempts other higher priority numbers until a connection can be "switched" to a higher priority number. Montalvo does not continue to check, or dial numbers after a connection is made. Montalvo also fails to teach or suggest any switching as claimed in applicant's invention.

Applicant's invention teaches a method and apparatus that enables automated transfer of a WAN-connected client from a low priority access number to a higher priority access number while the client is still in session. Such a method and apparatus enables a client to start a session using a low priority number (backup) and be reasonably assured that he or she will soon be switched to a higher priority number. In a practical sense, applicant's invention enables a client wishing to establish a connection to an ISP, using a long distance number because the local number is busy, to establish the connection, but be switched back to the local number once it is free. Montalvo is not capable of such monitoring and switching as claimed.

Applicant believes claims 16 and 27 are clearly patentable over the limited capabilities of Montalvo's dialer and stored dialing strings, as argued above. Claims 17-26 and 28-42 are patentable on their own merits, or at least as dependent from a patentable claim.

Regarding claim 1, the Examiner rejects the claim as being unpatentable over Montalvo in view of Gisby. The arguments provided above regarding Montalvo also apply here. Further, the Examiner states that Montalvo does not teach a CTI-switch for establishing call connections and performing call switching according to instruction formulated through the monitoring for directing the CTI-switch function based on the results of monitoring.

The Examiner relies on the art of Gisby to teach a CTI application monitors the switching apparatus for routing incoming calls to different distribution based on the results of monitoring for the purpose of allowing more ways to for people to interact,

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other than by just telephone. Therefore, it would have been obvious to incorporate the CTI switching application of Gisby into Montalvo because it would enhance computer interaction with call centers in more ways such as email, video mail etc..
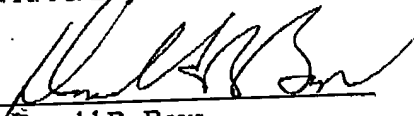
Applicant points out that the art of Gisby receives calls in a call center, monitors available destination points, such as available agents, for routing calls to available destination. Applicant argues that the art of Gisby fails to teach a CTI application that switches a caller, already engaged in a connection to a particular destination, to another connection at the same destination as claimed. Additionally the destinations in the art of Gisby must log on in order to be monitored by the application, which teaches away from applicant's invention.

Applicant believes, in view of the above arguments, that claim 1 is also clearly patentable over the art of Montalvo and Gisby. Claims 2-15 are patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims standing for examination have been shown to be patentable over the art of record, applicant respectfully requests reconsideration and that the present case be passed quickly to issue. If there are any time extensions due beyond any extension requested and paid with this amendment, such extensions are hereby requested. If there are any fees due beyond any fees paid with the present amendment, such fees are authorized to be deducted from deposit account 50-0534.

Respectfully Submitted,
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